

San Luis Obispo County
Department of Planning & Building

Concept Paper:
Condominium Conversion Ordinance

October, 2005

Executive Summary

Purpose Statement

Several areas in California have seen a large number of apartment buildings being converted into condominiums. Many cities and counties have adopted ordinances that regulate condominium conversions. This is because problems may arise when rental property is converted into multiple ownership property. A single project becomes a group of individually owned units all sharing common areas that are managed by an ownership association. Older apartment buildings may not conform to the current building, fire and zoning codes. Sometimes affordable rental units are converted into unaffordable condominium units.

Proposed Condominium Conversion Ordinance

The County has reviewed the ordinances of 25 other cities and counties. With regards to the County's housing policies and the current shortage of affordable housing, the County is considering adoption of an ordinance to regulate condominium conversion proposals. Such an ordinance should include the following components:

A. Application Requirements

1. Obtain Conditional Use Permit approval
2. Submit an Impact Report, documenting how many households will be displaced, how many households are of very low/low/moderate/above moderate income levels, and the project's rental rates for the previous three years. Document the community's current rental vacancy rate and other locally available rental units with similar rental rates.
3. Provide all households with a copy of the Impact Report and a hearing notice at least 15 days before the Conditional Use Permit hearing
4. Submit a Property Condition Report, prepared by a civil engineer, describing the physical condition of the buildings, common areas, and any deficiencies in compliance with current building, fire and zoning codes. Provide cost estimates for needed repairs, ongoing maintenance costs and for homeowners association fees.
5. Obtain approval of CC & R documents.
6. Document that all tenant notices required by state law have been /will be issued.

B. Project Improvements

1. Provide separate utility hook-ups and meters for each unit (water, electricity, etc.).
2. Provide a one-year reserve fund for the homeowners' association.
3. Project shall be in substantial conformance with building and fire codes, and public works standards. Shall be inspected and approved by building officials, the fire department, and the Public Works Department.
4. Project shall be in conformance with zoning ordinances and general plan requirements for new projects. This includes project density and design standards, setbacks, landscape and irrigation, fencing and paving.

- C. Tenant Protection Package for each tenant, that contains the following information:
 - 1. 60 day notice of “intent to convert” (pursuant to state law).
 - 2. Name and address of developer and/or property owner.
 - 3. Approximate date that the units must be vacant.
 - 4. Tenant’s right to terminate any long term rental lease or agreement he may have.
 - 5. Tenant’s right to continue to rent the unit for at least 180 days after permit approval.
 - 6. Protection from unjust eviction (for tenants who obey the laws and project rules).
 - 7. Protection from unjust rent increase (not to exceed cost-of-living adjustments).
 - 8. Tenant’s exclusive “option to buy” his unit.
 - 9. Approximate unit sales price.
- D. Relocation Assistance
 - 1. Developer shall provide each displaced household with a relocation fee of a dollar amount equal to two months rent in the unit currently occupied by that household.
- E. Threshold for new proposals
 - 1. The number of residential rental units that may be converted to condominium units is limited to 50% of the number of new residential rental units built in the previous calendar year in the geographic planning area of the project. The four geographic planning areas are defined as follows: North County, South County, North Coastal, and Central/San Luis Obispo planning areas.
 - 2. A 1:1 replacement of all previously sanctioned affordable rental units that exist in the project.
 - 3. These condominium conversion ordinances shall apply to all residential units that are demolished or converted to condominium units, hotel units, or non-residential units.

Options for Addressing Condominium Conversion Proposals

The County will consider several options before processing any amendments to its existing subdivision and zoning ordinances. These options include the following:

1. Status quo – continue to evaluate applications to convert rental property into condominiums for conformance with existing County ordinances and state laws.
2. Amend the ordinances to approve a condominium conversion after the project's impacts to the County's supply of rental units and affordable housing are identified and mitigated. Mitigations may include an offer of relocation assistance to displaced tenants.
3. Prohibit condominium conversion projects unless certain thresholds have been met, such as maintaining a 5% vacancy rate of rental units in the County, or a 1:1 replacement of any affordable units that may be eliminated by the conversion.

Guiding Principles

The County is unlikely to adopt ordinance amendments or new programs that do not meet the certain basic principals. All amendments and new programs regarding condominium conversions should be consistent with the following principles:

- Be legally defensible
- Be feasible to implement with minimal difficulty
- Equitably balance the interests of the property owners, tenants, and the County.
- Contribute towards achieving the County's housing goals.

Overview of Existing Laws and Ordinances

California Government Code

Several sections of the California Government Code address condominium conversions. These include the following:

Government Code Section 66427.1 – Notices to Tenants. All tenants shall receive the following notices – a) a 60 day “intent to convert” notice issued at least 60 days before the owner files an application with a local agency to subdivide the property into a condominium, b) a notice issued 10 days after the local agency has approved the final subdivision map that creates the condominium, c) a 180 day “termination of tenancy” notice filed anytime after the “intent to convert” notice, which provides the tenants at least 180 days to vacate their rental units, d) a 90 day “option to purchase” notice that grants the tenant the option to buy his or her unit at market price (or less) during the 90 day period after a final public paper has been issued by the state Department of Real Estate regarding the proposed condominium.

Government Code Section 66451.3 – Hearing Notice. All tenants shall receive a notice of the public hearing regarding the proposed condominium. The notice shall advise the tenants of their right to speak at the public hearing

Government Code Section 66452.3 – Staff Report. The property owner and all tenants shall receive copies of the agency staff report at least three days before any hearing regarding the proposed condominium.

Government Code Sections 66457.8 & 66457.9 – “Intent to Convert” Notice Form. A standard form is provided for the 60 day “intent to convert” notice. This notice shall be given to all existing tenants and to all new tenants who move into the project while the condominium conversion application is in process.

Supplemental Local Ordinances

Many cities and counties have ordinances that supplement the state laws for condominium conversion proposals. County staff reviewed the ordinances of 25 cities and counties. A comparison of the ordinances from 18 jurisdictions appears in the tables in the Appendix of this report. The tables show four categories of elements that are found in some or all of the local ordinances. These categories are:

1. Application Contents – for condominium conversion applications
2. Code Compliance – improvements and repairs that must be completed
3. Tenant Protection – additional “rights” and protection for tenants
4. Relocation Assistance – help for tenants who are forced to move

The tables include a fifth category entitled “Thresholds and Special Findings” that summarizes some unique ordinance requirements of the local jurisdictions.

The tables reflect three groups of cities and counties:

- Appendix - Table A – Local Jurisdictions

Table A compares the ordinances of San Luis Obispo County and its cities. The County simply enforces the existing state laws. The local cities have adopted a range of supplemental ordinances regarding project improvements (i.e., compliance with building and fire codes) and protection for existing tenants.

- Appendix - Table B – Other Counties

The ordinances of 14 counties were reviewed. A majority of the counties, including San Luis Obispo County, have few supplemental ordinances. Sacramento County has an extensive set of ordinances with elements in all categories of the Table. Santa Barbara County has few supplemental ordinances, but it will deny any project that would displace tenants within five years of the conversion approval.

- Appendix - Table C – Other Cities

The ordinances of 11 cities were reviewed. Most cities have standards for condominium conversions. Many cities are concerned about a project's appearance (i.e., "restore and refurbish" requirements) and its impact to the local housing market (i.e., potentially fewer rental units, lower vacancy rates and a loss of affordable housing units).

Application Contents

Jurisdictions with standards for project improvements and tenant protection require the applications to have information about the project's structural conditions and the rental history of the units. Jurisdictions that require tenant relocation assistance ask for information about each tenant's household size, the number of seniors, children, and disabled individuals, and how many families are receiving rental assistance (i.e., Section 8). The estimated condominium unit sales price is helpful information for tenants who are interested in buying their units. A few jurisdictions, such as Manhattan Beach City and Sacramento County, may base their approval on the number of tenants who will buy their units, and will request to know how many tenants support the condominium conversion project.

All jurisdictions require that a site plan be submitted that shows the site and all existing improvements. Many jurisdictions require a property report to be submitted that was prepared by a civil engineer who has inspected the property. The property report describes the condition, useful life and repair or replacement costs of structural components such as foundations, walls, roofs, windows, exterior paint and siding, plumbing, electrical work, mechanical equipment, fire alarms and sprinklers, hydrants, unit appliances, common area landscape, recreational facilities, paving, drainage, parking areas and driveways. Some jurisdictions ask for a schedule of proposed repairs and improvements. Other reports required by some jurisdictions include an acoustic (sound) report and pest control inspection report. All of these reports are made available to potential buyers.

Sometimes CC&R's are required, along with a cost estimate for the maintenance budget, homeowner association fees and reserve funds that are necessary to maintain the common areas.

A typical condominium conversion involves the subdivision of a rental property. It requires a subdivision map that is recorded to create the individual ownership units and a common open space lot. Some jurisdictions have combined their condominium standards with their subdivision ordinances. Others placed the standards in their zoning ordinances and require that a land use permit/condominium conversion permit be approved along with the subdivision map.

Project Improvements

Some jurisdictions require that a project be inspected and upgraded to comply (substantially) with current building and fire safety codes. All jurisdictions require compliance with current zoning and general plan regulations. In some areas a project may

be waived from meeting the current building design requirements, but few jurisdictions will exempt a project from meeting the current parking and unit density requirements. Some areas require upgrades for sound insulation and installation of separate electric, gas and water meters for all units. An applicant may be required to provide to the new buyers and homebuyer association a one-year guarantee on all unit appliances and on the common area components (i.e., swimming pools, parking lots, building exteriors). A minimum amount of private yard space/balcony space, usable common area and separate storage lockers may be required. Santa Barbara City requires that all conversions involving five or more dwellings shall be in compliance with the handicap access requirements of the state Department of Housing and Community Development. This may include installing an elevator. Some cities have a “restore and refurbish” standard and will require an applicant to upgrade all common area paving, fencing, landscape, exterior building walls and other features so that the project has an attractive appearance.

Tenant Protection

Many jurisdictions require the applicant to verify that all state-required notices have been or will be sent to the tenants. Some jurisdictions have ordinances specifying that if the tenants are coerced or threatened in any manner that the conversion application may be denied. In many areas a “tenant protection” or “tenant benefit” package must be given to each tenant along with the 60 day “notice of intent to convert.” This package may include items such as:

1. 60 day “notice of intent to convert”
2. Name & address of project owner and/or subdivision applicant.
3. The approximate date that the tenant must vacate if he/she is not buying the unit.
4. The tenant’s right to terminate any rental lease or agreement he/she may have.
5. The tenant’s right to continue renting the unit at least 180 day from the date of the “intent to convert” notice or from other date designated by the city (i.e., when the final map is approved).
6. Protection from unjust eviction (for rule-abiding tenants).
7. Any limits on an increase in rent.
8. The tenant’s exclusive “option to buy” his/her unit.
9. Approximate unit sales price.
10. Any relocation assistance and money that each displaced tenant will receive.
11. Any provision that will be given to “special case” tenants (i.e., seniors, families with children, disabled tenants, low income tenants).

Relocation Assistance

Jurisdictions that require relocation assistance to be provided to displaced tenants typically also require that a relocation assistance plan be submitted for approval. A copy of the plan must be given to the tenants. The plan may describe how many tenants will be displaced and the steps that the applicant will take to assist them in relocating to comparable housing. The plan may describe the location of comparable, available rental units and the amount of relocation funds each tenant household will get. Some jurisdictions require that up to \$500 in moving funds be provided and/or the cost of two or three months in rent. Other jurisdictions may require the applicant to pay the rent cost difference between the

original unit and the relocation unit for a period of one to two years. Where provisions for “special needs” tenants are required, the applicant may have to provide additional time for tenants to relocate (i.e., until the end of the school year for children) or additional relocation funds. Sacramento County requires that elderly or disabled tenants receive a life-time lease on their rental unit with controlled rent rates. The Cities of San Luis Obispo and Manhattan Beach discourage the loss of affordable units and may require that lower income tenants be given an offer to buy their units at a discounted or affordable (low income) price.

Thresholds and Special Findings

Many jurisdictions will not approve a project if there is a shortage of rental units and the area-wide vacancy rate is 5% or lower. Some jurisdictions review the project’s impact on the area-wide supply of rental and affordable housing units. A project may not be approved unless the jurisdiction finds that there will be no displacement of low income tenants. San Luis Obispo City has standards on how an applicant may assist low/moderate income tenants by taking one of the following actions:

- Offering to sell the rental units at an affordable (low/moderate) price.
- Offering a long-term lease that allows the tenant to continue renting his/her unit for three years or more at an affordable rate.
- Providing a 1:1 replacement of affordable units, which may be located elsewhere in the city.

Some jurisdictions require that an apartment building may not convert into condominiums if it is less than three or five years old, unless it was built to meet the standards for condominiums. Santa Barbara City applies condominium conversion standards to apartments that convert into motels or ownership units. Morro Bay applies its standards to apartment units that will be converted or demolished.

Appendix A

Appendix Contents:

- Table A – Local Jurisdictions – Condominium Conversion Requirements
- Table B – Other Counties – Condominium Conversion Requirements
- Table C – Other Cities – Condominium Conversion Requirements

TABLE A: LOCAL JURISDICTIONS: CONDOMINIUM CONVERSION REQUIREMENTS	San Luis Obispo Co.	Paso Robles	Atascadero	San Luis Obispo City	Pismo Beach	Arroyo Grande	Morro Bay
Application Contents							
Land Use/Condo Conversion Permit required		X	X	X	X		X
Property Report (condition of existing structures & appliances)			X	X	X	X	X
Building History Report (history of construction)			X	X		X	X
Rent & Vacancy History (i.e. rental rates)					X	X	X
Tenant Survey (family size, age, any children, rent subsidy)							
Inspect for Compliance w/ current Building & Fire Safety Codes						X	X
Inspect for Compliance w/ current Zoning & General Plan			X	X		X	
Pest Control inspection report			X	X	X		X
Acoustical (Noise) Report			X		X		X
Soils/Geology Report			X	X			X
Proposed repairs and improvements			X	X			
CC & R's		X	X	X	X	X	X
Estimated Unit Sales Prices					X	X	
Project Improvements							
Provide Warrantee for the Common Areas (1 year)						X	
Provide Warrantee for Appliances in Units (1 year)						X	
Provide Bond for Cost of Major Project Repairs							
Provide Sound Insulation						X	X
Meet current Building and Fire Safety Codes			X	X	X	X	X
Separate utility meters for each unit			X	X		X	X
"Restore & Refurbish" project for attractive appearance			X	X			X
Tenant Protection							
Provide Evidence that Public Notices Were Sent			X	X	X	X	X
Provide "Tenant's Rights" package with the move-out notice			X	X			X
• Stop Rent Increases			X	X			X
• No Unjust Evictions			X	X			X
• Option to Buy Unit (as per California law)			X	X	X		X
Relocation Assistance							
Help Tenants Find Comparable Housing					X		X
Provide Funds (i.e., 2 months rent, moving costs)					X		X
Offer Units at discount or affordable prices				X			
Assist "Special Needs" Tenants (Seniors, Disabled, Children)					X		
Thresholds & Special Findings							
SLO City – 10 units min. project size, annual max. = 50% of new rental units built in prior year, no loss of affordable units							
Atascadero – avoid displacement of low/mod income households							
Pismo Beach – 8 unit min. project size, collect \$500/unit for affordable housing fund, avoid displacement of low/mod income households							
Arroyo Grande – need 5% vacancy rate in City or 1:1 replacement with new rental units							
Morro Bay – no displacement of low/mod income households, annual max. = ½ of new rental units built or 1:1 replacement of rental units							

TABLE B: OTHER COUNTIES: CONDOMINIUM CONVERSION REQUIREMENTS	Orange County	Santa Barbara Co.	Santa Clara Co.	Santa Cruz co.	Sacramento Co.
Application Contents					
Land Use/Condo Conversion Permit required	X				X
Property Report (condition of existing structures & appliances)	X			X	X
Building History Report (history of construction)				X	X
Rent & Vacancy History (i.e. rental rates)	X				X
Tenant Survey (family size, age, any children, rent subsidy)					
Inspect for Compliance w/ current Building & Fire Safety Codes					X
Inspect for Compliance w/ current Zoning & General Plan					X
Pest Control inspection report				X	X
Acoustical (Noise) Report	X				X
Soils/Geology Report					
Proposed repairs and improvements				X	
CC & R's				X	X
Estimated Unit Sales Prices					
Project Improvements					
Provide Warrantee for the Common Areas (1 year)					
Provide Warrantee for Appliances in Units (1 year)					X
Provide Bond for Cost of Major Project Repairs					X
Provide Sound Insulation					
Meet current Building and Fire Safety Codes					X
Separate utility meters for each unit					X
"Restore & Refurbish" project for attractive appearance					
Tenant Protection					
Provide Evidence that Public Notices Were Sent			X	X	X
Provide "Tenant's Rights" package with the move-out notice					X
• Stop Rent Increases				X	X
• No Unjust Evictions					X
• Option to Buy Unit (as per California law)	X		X	X	X
Relocation Assistance					
Help Tenants Find Comparable Housing					X
Provide Funds (i.e., 2 months rent, moving costs)	X			X	X
Offer Units at discount or affordable prices					
Assist "Special Needs" Tenants (Seniors, Disabled, Children)	X			X	X
Thresholds & Special Findings					
Santa Barbara Co. – DENY project if any tenants will be displaced involuntarily within FIVE YEARS of subdivision approval. Sacramento Co. – submit report on project's impact to community supply of rental & affordable housing. Need 5% vacancy rate in county or 1:1 replacement of affordable units. Santa Cruz Co. – need 3% vacancy rate in county, unless entire project will be affordable. Follows Coastal Zone requirement for 1:1 replacement of affordable units (3+ unit apartment bldg. or 11 + detached units = 1:1 replacements). Orange Co. – submit report on project's impact to community supply of rental & affordable housing.					

TABLE C: OTHER CITIES: CONDOMINIUM CONVERSION REQUIREMENTS	San Diego City	Santa Monica	Manhattan Beach	Santa Barbara City	San Jose	Monterey City
Application Contents						
Land Use/Condo Conversion Permit required		X	X	X	X	
Property Report (condition of existing structures & appliances)		X	X	X	X	X
Building History Report (history of construction)		X		X	X	
Rent & Vacancy History (i.e. rental rates)		X	X	X	X	
Tenant Survey (family size, age, any children, rent subsidy)			X	X		
Inspect for Compliance w/ current Building & Fire Safety Codes		X				X
Inspect for Compliance w/ current Zoning & General Plan						X
Pest Control inspection report			X	X	X	X
Acoustical (Noise) Report			X			X
Soils/Geology Report			X			
Proposed repairs and improvements		X	X			X
CC & R's		X	X	X	X	X
Estimated Unit Sales Prices		X	X			X
Project Improvements						
Provide Warrantee for the Common Areas (1 year)			X		X	X
Provide Warrantee for Appliances in Units (1 year)					X	
Provide Bond for Cost of Major Project Repairs			X		X	X
Provide Sound Insulation			X	X	X	X
Meet current Building and Fire Safety Codes		X	X	X	X	X
Separate utility meters for each unit		X	X	X	X	X
"Restore & Refurbish" project for attractive appearance			X	X		
Tenant Protection						
Provide Evidence that Public Notices Were Sent		X	X	X	X	X
Provide "Tenant's Rights" package with the move-out notice				X	X	
• Stop Rent Increases			X	X	X	
• No Unjust Evictions			X	X	X	
• Option to Buy Unit (as per California law)			X	X	X	X
Relocation Assistance						
Help Tenants Find Comparable Housing			X		X	
Provide Funds (i.e., 2 months rent, moving costs)	X		X	X	X	X
Offer Units at discount or affordable prices			X			
Assist "Special Needs" Tenants (Seniors, Disabled, Children)			X	X	X	X
Thresholds & Special Findings						
San Diego City – relocation funds not required if vacancy rate in city is over 7% Santa Monica – Rent Control Board must approve any loss of rental units. Need 5% vacancy rate in city. Relocation plan required but no specifics given. Manhattan Beach – need 5% vacancy rate in city, or 75% of tenants agree to buy project units, or 25% of the units will be affordable (20% for low & 5% for mod. Income). Avoid significant displacement. Santa Barbara City – 1:1 replacement of all affordable units and must stay within project. Max. 50 units each year, or no more converted units than number of rental units built in prior year. Monterey City – Inclusionary Housing Ordinance applies.						